

Remarks/Arguments

Independent claims 1 and 6 stand rejected as being anticipated under 35 USC 102 by Farrell Patent No.5,354,021. The rejections are respectfully traversed and reconsideration is requested insofar as these claims are above clarified by amendment.

As clarified, claim 1 reads as follows.

1. Apparatus for bundling conductors, comprising:

(a) a cable tie having a head and a strap extending from the head to a strap free end; and

(b) a cable encircling member having a width exceeding a width of said cable tie strap and flat throughout a full length thereof,

said cable tie being assembled with said cable encircling member and forming said cable encircling member from such flat condition into a spiral coil interiorly of said cable tie and encircling said conductors. (emphasis added)

As amended, claims 1 and 6 require that the recited cable encircling member exhibit flatness throughout the full length thereof. The Farrell patent does not so disclose or suggest. Rather, Farrell calls his cable encircling member to be comprised of two distinct sections, a flat base portion 16 and a loop portion 18. Given the predefined arcuate condition of loop portion 18, Farrell does not accordingly contemplate applicant's forming of a cable encircling member from a flat condition into a spiral coil.

The above emphasized parts of claim 1 express such distinctions over the teachings of Farrell. Like distinguishing content is present in claim 6 as clarified.

To the extent that the Farrell patent does not disclose or suggest express content of claims 1 and 6, the patent cannot tenably stand as an anticipating reference within the meaning of Section 102. Claims 1 and 6 are accordingly submitted as patentable.

Reliance is placed on In re Fine, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) and Ex parte Kochan, 131 USPQ 204 (Bd. App. 1960) for allowance of the dependent claims, since they differ in scope from parent independent claims submitted as patentable.

Patentability of all claims is believed to have been established and, as such, it is submitted that this application is now in condition for allowance. Indication to that effect is solicited.

Should the Examiner be of the view that an interview would expedite consideration of this Amendment or of the application at large, request is made that the Examiner telephone undersigned counsel for applicant at (212) 682-9640.

This paper is being filed by facsimile transmission to 1-703-872-9306 on this 9th day of December, 2004 and is accordingly submitted as timely filed within three-months from the mailing date of the Office Action, namely, September 27, 2004.

Respectfully submitted,


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